

# STATE OF NEW YORK

5988

2019-2020 Regular Sessions

## IN ASSEMBLY

February 26, 2019

Introduced by M. of A. LAWRENCE -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to extending the benefits of the STAR program to small businesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (b-1) as added by section 1 of part FF of chapter 57 of the laws of 2010, paragraph (d) as amended by chapter 564 of the laws of 2015, paragraph (e) as added by section 2 of part W of chapter 57 of the laws of 2008 and paragraph (f) as added by section 1 of part B of chapter 59 of the laws of 2012, is amended to read as follows:

3. Eligibility requirements. (a) Property use. To qualify for exemption pursuant to this section, the property must be a one, two or three family residence, a farm dwelling, a small business or residential property held in condominium or cooperative form of ownership. If the property is not an eligible type of property, but a portion of the property is partially used by the owner as a primary residence, that portion which is so used shall be entitled to the exemption provided by this section; provided that in no event shall the exemption exceed the assessed value attributable to that portion.

(b) Primary residence. The property must serve as the primary residence of one or more of the owners thereof, unless such property is owned by a small business as defined in paragraph (g) of this subdivision.

(b-1) Income. For final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve school year and thereafter, the parcel's affiliated income may be no greater than five hundred thousand dollars, as determined by the commissioner of taxation

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 and finance pursuant to section one hundred seventy-one-u of the tax  
2 law, in order to be eligible for the basic exemption authorized by this  
3 section. As used herein, the term "affiliated income" shall mean the  
4 combined income of all of the owners of the parcel who resided primarily  
5 thereon on the applicable taxable status date, and of any owners' spouses  
6 residing primarily thereon. For exemptions on final assessment rolls  
7 to be used for the levy of taxes for the two thousand eleven-two thou-  
8 sand twelve school year, affiliated income shall be determined based  
9 upon the parties' incomes for the income tax year ending in two thousand  
10 nine. In each subsequent school year, the applicable income tax year  
11 shall be advanced by one year. The term "income" as used herein shall  
12 have the same meaning as in subdivision four of this section.

13 (c) Trusts. If legal title to the property is held by one or more  
14 trustees, the beneficial owner or owners shall be deemed to own the  
15 property for purposes of this subdivision.

16 (d) Farm dwellings not owned by the resident. (i) If legal title to  
17 the farm dwelling is held by an S-corporation or by a C-corporation, the  
18 exemption shall be granted if the property serves as the primary resi-  
19 dence of a shareholder of such corporation.

20 (ii) If the legal title to the farm dwelling is held by a partnership,  
21 the exemption shall be granted if the property serves as the primary  
22 residence of one or more of the partners.

23 (iii) If the legal title to the farm dwelling is held by a limited  
24 liability company, the exemption shall be granted if the property serves  
25 as the primary residence of one or more of the owners.

26 (iv) Any information deemed necessary to establish shareholder, part-  
27 ner or owner status for eligibility purposes shall be considered confi-  
28 dential and exempt from the freedom of information law.

29 (e) Dwellings owned by limited partnerships. (i) If legal title to a  
30 dwelling is held by a limited partnership, the exemption shall be grant-  
31 ed if the property serves as the primary residence of one or more of the  
32 partners, provided that the limited partnership which holds title to the  
33 property does not engage in any commercial activity, that the limited  
34 partnership was lawfully created to hold title solely for estate plan-  
35 ning and asset protection purposes, and that the partner or partners who  
36 primarily reside thereon personally pay all of the real property taxes  
37 and other costs associated with the property's ownership.

38 (ii) Any information deemed necessary to establish partner status for  
39 eligibility purposes shall be considered confidential and exempt from  
40 the freedom of information law.

41 (f) Compliance with state tax obligations. The property's eligibility  
42 for the STAR exemption must not be suspended pursuant to section one  
43 hundred seventy-one-y of the tax law due to the past-due state tax  
44 liabilities of one or more of its owners. Notwithstanding any provision  
45 of law to the contrary, where a property's eligibility for a STAR  
46 exemption has been suspended pursuant to such section, the following  
47 provisions shall be applicable:

48 (i) The property shall be ineligible for a basic or enhanced STAR  
49 exemption effective with the next school year commencing after the issu-  
50 ance of notice by the department of the suspension of its eligibility  
51 for the STAR exemption, even if the notice was issued after the applica-  
52 ble taxable status date. If a STAR exemption has been granted to such a  
53 property on a tentative or final assessment roll, the assessor or other  
54 person having custody of that roll is hereby authorized and directed to  
55 immediately remove that STAR exemption from the roll.

1 (ii) Any challenge to the factual or legal basis behind the suspension  
2 of a property's eligibility for a STAR exemption pursuant to section one  
3 hundred seventy-one-y of the tax law must be presented to the department  
4 in the manner prescribed by such section. Neither an assessor nor a  
5 board of assessment review has the authority to consider such a chal-  
6 lenge.

7 (iii) The property shall remain ineligible for the STAR exemption  
8 until the department notifies the assessor that the suspension of its  
9 eligibility has been lifted. Once the assessor has been so notified, the  
10 exemption may be resumed on a prospective basis only, provided that the  
11 eligibility requirements of this section are otherwise satisfied.

12 (iv) In the case of a cooperative apartment or mobile home receiving a  
13 STAR exemption pursuant to paragraph (k) or (l) of subdivision two of  
14 this section, a suspension of a STAR exemption due to a taxpayer's past-  
15 due state tax liabilities shall only apply to the STAR exemption on the  
16 cooperative apartment or mobile home owned, or deemed to be owned, by  
17 that taxpayer.

18 (g) Small businesses. For the purposes of this subdivision:

19 (i) The term "small business" shall mean a business which employs one  
20 hundred persons or less and is located on a non-residential property  
21 used primarily for commercial purposes. Such business will only be  
22 eligible for the exemption if it does not receive empire zone real prop-  
23 erty tax benefits pursuant to section fifteen of the tax law or does not  
24 make payments in lieu of taxes to the public school district in which  
25 such small business is located at a rate below the rate applicable to  
26 all other properties; and

27 (ii) The term "commercial" shall have the same meaning as set forth in  
28 section four hundred eighty-nine-aaa of this article.

29 § 2. This act shall take effect immediately and shall apply to all  
30 taxable years beginning on and after January 1, 2019.